

**From:** [LERS, EOIR \(EOIR\)](#)  
**To:** [LERS, EOIR \(EOIR\)](#); [All of Judges \(EOIR\)](#); [BIA BOARD MEMBERS \(EOIR\)](#); [BIA ATTORNEYS \(EOIR\)](#); [All of CLAD \(EOIR\)](#); [All of OCIJ JLC \(EOIR\)](#); [BIA TEAM JLC](#); [BIA TEAM P \(EOIR\)](#); [Alder Reid, Lauren \(EOIR\)](#); [Allen, Patricia M. \(EOIR\)](#); [Anderson, Jill \(EOIR\)](#); [Baptista, Christina \(EOIR\)](#); [Bauder, Melissa \(EOIR\)](#); [Berkeley, Nathan \(EOIR\)](#); [Brazill, Caitlin \(EOIR\)](#); [Burgie, Brea \(EOIR\)](#); [Burgus, Elizabeth \(EOIR\)](#); [Cicchini, Daniel \(EOIR\)](#); [Cowles, Jon \(EOIR\)](#); [Curry, Michelle \(EOIR\)](#); [Evans, Brianna \(EOIR\)](#); [Grodin, Edward \(EOIR\)](#); [Hartman, Alexander \(EOIR\)](#); [Kaplan, Matthew \(EOIR\)](#); [King, Jean \(EOIR\)](#); [Korniluk, Artur \(EOIR\)](#); [Lang, Steven \(EOIR\)](#); [Lovejoy, Erin \(EOIR\)](#); [Martinez, Casey L. \(EOIR\)](#); [Noferi, Mark \(EOIR\)](#); [O'Hara, Shelley M. \(EOIR\)](#); [Park, Jeannie \(EOIR\)](#); [Powell, Karen B. \(EOIR\)](#); [Ramirez, Sergio \(EOIR\)](#); [Rimmer, Phillip \(EOIR\)](#); [Robbins, Laura \(EOIR\)](#); [Rodrigues, Paul A. \(EOIR\)](#); [Rodriguez, Bernardo \(EOIR\)](#); [Rothwarf, Marta \(EOIR\)](#); [Sanders, John W. \(EOIR\)](#); [Schaaf, Joseph R. \(EOIR\)](#); [Smith, Terry \(EOIR\)](#); [Stutman, Robin M. \(EOIR\)](#); [Swanwick, Daniel \(EOIR\)](#); [Taufa, Elizabeth \(EOIR\)](#); [Vayo, Elizabeth \(EOIR\)](#)  
**Cc:** [McHenry, James \(EOIR\)](#); [Reilly, Katherine \(EOIR\)](#); [Santoro, Christopher A \(EOIR\)](#); [Sheehey, Kate \(EOIR\)](#); [Moutinho, Deborah \(EOIR\)](#); [Adams, Amanda \(EOIR\)](#); [Pease, Jeffrey \(EOIR\)](#); [Morgan, Kenosha \(EOIR\)](#); [Macri, Andrea \(EOIR\)](#); [EOIR Library \(EOIR\)](#)  
**Subject:** Policy & Case Law Bulletin - July 20, 2018  
**Date:** Friday, July 20, 2018 8:50:55 PM

**EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW**  
Office of Policy | Legal Education and  
Research Services Division

**Policy & Case Law Bulletin**  
July 20, 2018

**Federal Agencies**

**DOJ**

- [OCAHO Issues Decision in M.S. v. Dave S.B. Hoon-John Wayne Cancer Institute](#) — EOIR

12 OCAHO no. 1305b (July 20, 2018)

The Administrative Law Judge denied the complainant's motion to reconsider because the complainant's charge (a condition precedent to filing a complaint with OCAHO) was untimely and the complainant had failed to produce credible evidence otherwise. Therefore, the ALJ found there was no manifest injustice justifying reconsideration. The complaint (in an immigration-related employment discrimination case filed under 8 U.S.C. § 1324b) had previously been dismissed because the complainant had not filed a timely administrative charge with the Immigrant and Employee Rights Section of the Department's Civil Rights Division, as required by statute.

- [Virtual Law Library Weekly Update](#) — EOIR

This update includes resources recently added to EOIR's internal or external Virtual Law Library, such as Federal Register Notices, country conditions information, and links to recently-updated immigration law publications.

**DHS**

- [DHS Extends the Designation of Somalia for Temporary Protected Status](#)

On July 19, 2018, DHS announced that it extended the designation of Somalia for TPS for an additional 18 months, through March 17, 2020.

- [USCIS Announces that Attorneys and Accredited Representatives Can Now File Form N-565 Online](#)

On July 17, 2018, USCIS announced that attorneys and accredited representatives can now file Form N-565, Application for Replacement Naturalization/Citizenship Document, using their myUSCIS online accounts. USCIS will no longer provide paper copies of Form N-565, but the form may be downloaded from the USCIS website.

**HHS**

- [The Trump Administration Plan for Reunifying Families](#)

On July 18, 2018, HHS, DHS, and DOJ released a plan entitled “The Tri-Department Plan for Stage II of Family Reunification” that the departments “are implementing for eligible children over 5 years of age who may have been separated from their parents.” The summary document linked above “is intended to educate the public about the detailed interdepartmental reunification plan presented” to Judge Sabraw of the U.S. District Court for the Southern District of California.

DOL

- [Updated Program Factsheets Containing FY 2018 Q3 Selected Statistics](#)

The Office of Foreign Labor Certification has posted updated program factsheets containing the Quarter 3 FY 2018 selected statistics for the Permanent Labor Certification Program, Prevailing Wage Determination Program, H-1B Temporary Visa Program, H-2A Temporary Agricultural Visa Program, and H-2B Temporary Non-agricultural Visa Program. Reports are derived from program data as of 6/30/2018.

## International

UN

- [Global Compact for Safe, Orderly and Regular Migration](#)

On July 13, 2018, the Spokesman for UN Secretary General António Guterres issued a [statement](#), describing the Global Compact for Safe, Orderly and Regular Migration as the “first global agreement designed to better manage international migration in all its dimensions, for the benefit of all States and communities, and with the rights of all migrants at the fore.” UN Deputy Secretary-General Amina Mohammed also delivered [remarks](#) at the final round of negotiations on the Global Compact for Migration. “This compact demonstrates the potential of multilateralism: our ability to come together on issues that demand global collaboration — however complicated and contentious they may be” she explained. The Compact will be formally adopted by Heads of State and Government at an intergovernmental conference on December 10-11, 2018 in Marrakesh, Morocco.

## First Circuit

- [Rosales Justo v. Sessions](#)

No. 17-1457, 2018 WL 3424685 (1st Cir. July 16, 2018) (Asylum-General)

The First Circuit granted the PFR, concluding that the Board erred in reversing the Immigration Judge’s grant of asylum. The court determined that the Board erred in applying the “unable or unwilling” standard “by treating it as one element, rather than separately examining the government’s unwillingness and its inability.” Specifically, the court reasoned that: (a) the Board “failed to consider evidence of the Mexican government’s inability to protect Rosales and his nuclear family, as distinct from evidence of the willingness of the police to investigate the murder of Rosales’s son;” (b) the Board erroneously “discounted country condition reports which, when combined with Rosales’s testimony about the particular circumstances of his case, were sufficient to support the IJ’s finding that the police in Guerrero would be unable to protect Rosales from persecution by organized crime;” (c) the Board erred “by concluding that the IJ’s finding that Rosales did not report threats by organized crime to the police refuted the IJ’s ultimate finding of inability;” and (d) the Board “incorrectly concluded that the IJ’s inability finding was clearly erroneous because the Mexican government’s failure to protect Rosales was indistinguishable from the struggles of any government to combat crime, when the record before the IJ supported a finding that it was distinguishable.”

### Fifth Circuit

- [Revenu v. Sessions](#)

No. 16-60851, 2018 WL 3385894 (5th Cir. July 12, 2018) (Asylum-General)

The Fifth Circuit denied the PFR, holding that Revenu was not entitled to withholding of removal because he had failed to establish that he was persecuted because of his political opinion or one that was imputed to him, and there was no evidence that the persecution suffered by his wife based on her Roma ethnicity was directed at him.

### Sixth Circuit

- [Patel v. Sessions](#)

Nos. 17-4277/8, 2018 WL 3414355 (6th Cir. July 13, 2018) (unpublished) (Motions)

The Sixth Circuit granted the PFR, concluding that the Board's decision did not make clear whether it actually considered some evidence presented by the petitioners that they had lived at an address in June and July 1997 for the purpose of the petitioners' motion to reopen an in absentia order of deportation under former section 242B(c) of the Act.

### Eighth Circuit

- [United States v. Gaines](#)

No. 17-1274, 2018 WL 3423287 (8th Cir. July 16, 2018) (COV)

The Eighth Circuit concluded that Iowa domestic abuse assault under Iowa Code § 708.2A(2)(c) is divisible as to the element of physical force required for a crime of violence under U.S.S.G. § 4B1.2(a)(1), which is analogous to 18 U.S.C. § 16(a).

### Ninth Circuit

- [Aymo v. Sessions](#)

No. 17-71159, 2018 WL 3454483 (9th Cir. July 18, 2018) (unpublished) (Due Process)

The Ninth Circuit granted the PFR and remanded, finding that Aymo received incompetent translation during his removal hearing, highlighting instances in the record of the following indicators of incompetent translation: "direct evidence of incorrectly translated words," "unresponsive answers," and "the witness's expression of difficulty understanding what is said to him." The court also determined that Aymo was prejudiced by the incompetent translation because his adverse credibility finding was based on internal inconsistencies and testimony that was vague and implausible. The court concluded that Aymo's removal hearing did not satisfy due process.

- [Martinez-de Ryan v. Sessions](#)

No. 15-70759, 2018 WL 3431700 (9th Cir. July 17, 2018) (CIMT)

The Ninth Circuit denied the PFR, concluding that the statutory phrase "crime involving moral turpitude" at section 212(a)(2)(A)(i)(I) of the Act is not unconstitutionally vague. See *Jordan v. De George*, 341 U.S. 223 (1951); *Tseung Chu v. Cornell*, 247 F.2d 929 (9th Cir. 1957).

[Medrano-Lopez v. Sessions](#)

No. 15-71203, 2018 WL 3433777 (9th Cir. July 17, 2018) (unpublished) (Motions)

The Ninth Circuit granted the PFR, concluding that the Board abused its discretion in denying a motion to reopen because it did not determine “the cognizability of the particular social group in light of the new evidence of conditions in El Salvador or provide a reasoned explanation for why the evidence already in the record did not demonstrate a nexus to this particular social group.” The court also concluded that the Board erred by applying the CAT standard in determining whether the applicants met their burden for reopening their asylum and withholding of removal proceedings. One judge dissented, stating that “[a]lthough sparse, the BIA’s reasons given for denying re-opening were sufficiently clear to preclude a determination that the Board abused its discretion.”